

Law Office of Shmuel Klein, P.A.
Attorney for Debtor
113 Cedarhill Avenue
Mahwah, NJ 07430
845-425-2510

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

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IN RE:

Windzor Jean

Debtor

Chapter 13

Case No. 18-19690 (RG)

_____X

NOTICE OF MOTION TO REINSTATE CASE AND IMPOSE AUTOMATIC STAY

TO ALL PARTIES:

PLEASE TAKE NOTICE that, a motion will be made as set forth below:

JUDGE: Honorable Rosemary Gambardella

RETURN DATE AND TIME: July 17, 2019

PLACE: 50 Walnut Street
Courtroom 3E
Newark, NJ 07102

RELIEF REQUESTED: Motion to Reinstate Automatic Stay

BASIS FOR RELIEF REQUESTED: Bankruptcy Rule 362

DATED: May 29, 2019
Mahwah, NJ

/s/ Shmuel Klein
Shmuel Klein

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**UNITED STATES BANKRUPTCY COURT
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IN RE:
Windzor Jean
Debtor
_____X

Chapter 13
Case No. 18-19690 (RG)

CERTIFICATION IN SUPPORT OF MOTION TO IMPOSE AUTOMATIC STAY

COMES NOW the debtor, Windzor Jean , through their attorney Shmuel Klein and files this Motion to Reinstates the automatic stay case and states and alleges as follows:

1. The debtor filed a Chapter 13 petition with this Court on 05/11/2018 .
2. The Debtor had a prior case filed on 03/31/2017 and pending within the preceding one year of the current case but that case was dismissed on 10/13/2017. See case 17-16434.

3. Throughout the prior case, the debtor made his mortgage payments and his Trustee payments. There are no facts present in the prior case or the present case which could be interpreted as bad faith. In fact the Debtor has demonstrated good faith in making his payments and otherwise attending the Section 341 meeting and submitting all required documents. I believe Debtor is up to date with the payments pursuant to his plan. The Debtor's plan is confirmable.

WHEREFORE, the debtor respectfully requests that the court reinstate the stay.

Dated: May 29, 2019
Mahwah, NJ

_____/s/ Shmuel Klein_____
Shmuel Klein

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

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IN RE:

Windzor Jean

Debtor

Chapter 13

Case No. 18-19690 (RG)

_____X

**MEMORANDUM OF LAW IN SUPPORT
OF MOTION TO IMPOSE AUTOMATIC STAY**

COMES NOW Debtor, Windzor Jean, through counsel, Law Office of Shmuel Klein PA and files this Memorandum of Law in further support of the Debtor's motion to reinstate the automatic stay.

Pursuant to Bankruptcy Code section 362(c)(3)(A) "if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed . . . the stay . . . with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case."

Once the automatic stay is terminated, the appropriate standard utilized by the courts to determine whether the automatic stay should be reimposed is the "injunctive principles [that] are more stringent than those applied under section 362(d) to continue the stay." *Wedgewood Inv. Fund, Ltd. v. Wedgewood Realty Group, Ltd. (In re Wedgewood Realty Group, Ltd.)*, 878 F.2d 693, 701 (3d Cir.1989).

Throughout the prior case, the debtor made his mortgage payments and his Trustee payments. There are no facts present in the prior case or the present case which could be interpreted as bad faith. In fact the Debtor has demonstrated good faith in making his payments and otherwise attending the Section 341 meeting and submitting all required documents.

Bankruptcy Code section 105(a) permits a bankruptcy court to reimpose or issue a new stay that

has otherwise lapsed or been terminated. 2 Collier On Bankruptcy ¶ 105.03-.04 (Lawrence P. King ed., 15th ed. 1995); see also In re Wedgewood Realty Group, Ltd., 878 F.2d 693, 701 (3d Cir.1989); In re Martin Exploration Co., 731 F.2d 1210, 1214 (5th Cir.1984).

The Local Rules of this Court also permit the debtor to make a motion to reimpose the automatic stay. See Order Reinstating **Automatic** Stay.docm Form: Order Reinstating **Automatic** Stay 7-12-16.pdf.

WHEREFORE, the debtor respectfully requests that the court reinstate the stay.

Dated: May 29, 2019
Mahwah, NJ

/s/ Shmuel Klein
Shmuel Klein